

§ 382.21 May carriers limit access to transportation on the basis that a passenger has a communicable disease or other medical condition?

(a) You must not do any of the following things on the basis that a passenger has a communicable disease or infection, unless you determine that the passenger's condition poses a direct threat:

- (1) Refuse to provide transportation to the passenger;
- (2) Delay the passenger's transportation (*e.g.*, require the passenger to take a later flight);
- (3) Impose on the passenger any condition, restriction, or requirement not imposed on other passengers; or
- (4) Require the passenger to provide a medical certificate.

(b) In assessing whether the passenger's condition poses a direct threat, you must apply the provisions of § 382.19(c)(1)–(2) of this subpart.

(1) In making this assessment, you may rely on directives issued by public health authorities (*e.g.*, the U.S. Centers for Disease Control or Public Health Service; comparable agencies in other countries; the World Health Organization).

(2) In making this assessment, you must consider the significance of the consequences of a communicable disease and the degree to which it can be readily transmitted by casual contact in an aircraft cabin environment.

Example 1 to paragraph (b)(2): The common cold is readily transmissible in an aircraft cabin environment but does not have severe health consequences. Someone with a cold would not pose a direct threat.

Example 2 to paragraph (b)(2): AIDS has very severe health consequences but is not readily transmissible in an aircraft cabin environment. Someone would not pose a direct threat because he or she is HIV-positive or has AIDS.

Example 3 to paragraph (b)(2): SARS may be readily transmissible in an aircraft cabin environment and has severe health consequences. Someone with SARS probably poses a direct threat.

(c) If a passenger with a communicable disease meeting the direct threat criteria of this section gives you a medical certificate of the kind outlined in § 382.23(c)(2) describing measures for preventing transmission of the disease during the normal course of the

flight, you must provide transportation to the passenger, unless you are unable to carry out the measures.

(d) If your action under this section results in the postponement of a passenger's travel, you must permit the passenger to travel at a later time (up to 90 days from the date of the postponed travel) at the fare that would have applied to the passenger's originally scheduled trip without penalty or, at the passenger's discretion, provide a refund for any unused flights, including return flights.

(e) If you take any action under this section that restricts a passenger's travel, you must, on the passenger's request, provide a written explanation within 10 days of the request.

§ 382.23 May carriers require a passenger with a disability to provide a medical certificate?

(a) Except as provided in this section, you must not require a passenger with a disability to have a medical certificate as a condition for being provided transportation.

(b)(1) You may require a medical certificate for a passenger with a disability—

(i) Who is traveling in a stretcher or incubator;

(ii) Who needs medical oxygen during a flight; or

(iii) Whose medical condition is such that there is reasonable doubt that the individual can complete the flight safely, without requiring extraordinary medical assistance during the flight.

(2) For purposes of this paragraph, a medical certificate is a written statement from the passenger's physician saying that the passenger is capable of completing the flight safely, without requiring extraordinary medical assistance during the flight.

(3) To be valid, a medical certificate under this paragraph must be dated within 10 days of the scheduled date of the passenger's initial departing flight.

Example to paragraph (b)(3): A passenger who schedules a flight from New York to London on January 15 with a return on April 15 would have to show a medical certificate dated January 5 or later. The passenger would not have to show a second medical certificate dated April 5 or later.

(c)(1) You may also require a medical certificate for a passenger if he or she has a communicable disease or condition that could pose a direct threat to the health or safety of others on the flight.

(2) For purposes of this paragraph, a medical certificate is a written statement from the passenger's physician saying that the disease or infection would not, under the present conditions in the particular passenger's case, be communicable to other persons during the normal course of a flight. The medical certificate must state any conditions or precautions that would have to be observed to prevent the transmission of the disease or infection to other persons in the normal course of a flight. A medical certificate under this paragraph must be dated within 10 days of the date of the flight for which it is presented.

(d) As a carrier, you may require that a passenger with a medical certificate undergo additional medical review by you if there is a legitimate medical reason for believing that there has been a significant adverse change in the passenger's condition since the issuance of the medical certificate or that the certificate significantly understates the passenger's risk to the health of other persons on the flight. If the results of this medical review demonstrate that the passenger, notwithstanding the medical certificate, is likely to be unable to complete the flight without requiring extraordinary medical assistance (*e.g.*, the passenger has apparent significant difficulty in breathing, appears to be in substantial pain, *etc.*) or would pose a direct threat to the health or safety of other persons on the flight, you may take an action otherwise prohibited under § 382.21(a) of this part.

[Docket OST-2004-19482, 73 FR 27665, May 13, 2008, as amended at 75 FR 44887, July 30, 2010]

§ 382.25 May a carrier require a passenger with a disability to provide advance notice that he or she is traveling on a flight?

As a carrier, you must not require a passenger with a disability to provide advance notice of the fact that he or she is traveling on a flight.

§ 382.27 May a carrier require a passenger with a disability to provide advance notice in order to obtain certain specific services in connection with a flight?

(a) Except as provided in paragraph (b) of this section and §§ 382.133(c)(4) and (5) and 382.133 (d)(5) and (6), as a carrier you must not require a passenger with a disability to provide advance notice in order to obtain services or accommodations required by this Part.

(b) You may require a passenger with a disability to provide up to 72 hours' advance notice and check in one hour before the check-in time for the general public to receive carrier-supplied in-flight medical oxygen on international flights, 48 hours' advance notice and check-in one hour before the check-in time for the general public to receive carrier-supplied in-flight medical oxygen on domestic flights, and 48 hours' advance notice and check-in one hour before the check-in time for the general public to use his/her ventilator, respirator, CPAP machine or POC.

(c) You may require a passenger with a disability to provide up to 48 hours' advance notice and check in one hour before the check-in time for the general public to receive the following services and accommodations. The services listed in paragraphs (c)(1) through (c)(3) of this section are optional; you are not required to provide them, but you may choose to do so.

- (1) Carriage of an incubator;
- (2) Hook-up for a respirator, ventilator, CPAP machine or POC to the aircraft electrical power supply;
- (3) Accommodation for a passenger who must travel in a stretcher;
- (4) Transportation for an electric wheelchair on an aircraft with fewer than 60 seats;
- (5) Provision of hazardous materials packaging for batteries or other assistive devices that are required to have such packaging;
- (6) Accommodation for a group of ten or more qualified individuals with a disability, who make reservations and travel as a group; and
- (7) Provision of an on-board wheelchair on an aircraft with more than 60 seats that does not have an accessible lavatory.